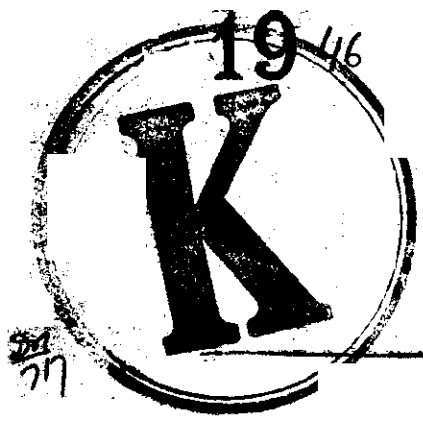

File No. Indus Disputes II/46
Legal Department

B **BRANCH**

Subject:—

Rules & Notifications under the Bombay Industrial Disputes Act, 1938.

P=7
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File No. Indus Disputes II/46

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C O N T E N T S.

Legal Department. File No. Indus Disputes II/46.

Sr. No.	R.I./S.No.	Subject.	Pages.
		The Bombay Industrial Disputes Act, 1938.	
1.	U.R. to P. & S.D. No. 2794. 20.4.46.	Sec. 3 — Notification under —	1-4
2.	U.R. to P. & S.D. No. 372-P 16.8.46.	Sec. 49A —Notification issued under cancellation of —	5-16.
3.	U.R. to P.& S.D. No. 6314 12.9.46.	Sec. 2(3) — issue of Notification for applying certain sections to Banking Companies —	17-20.
4.	U.R. to P.& S.D. No. 7156 19.10.46.	Sec. 2(3) —Notification under —	21-22.

V.M.D./4.7
50.

Office of the R.L.A

Clause (18) of section 3 of the Bombay Industrial Disputes Act, 1938, empowers the Provincial Government to notify any area as a local area. It would therefore be competent for the Provincial Government to issue a notification under that clause notifying particular areas to be local areas for the purposes of the Act. In place of the draft notification at page 9 ante a revised draft notification is sent herewith. The draft notification at page 7 ante as slightly amended is in order.

2. As regards the draft notification at page 5 ante it is not feasible to make the amendment as proposed in view of the difficulty caused by the issues of subsequent notifications. The draft notification purports to amend Government Notification No. 2847/34 dated 10.6.1939 (p. 145 of P. & S.D. File No. 2847/34). That notification supersedes a notification of 14.3.1939 at page 49 of the P. & S.D. file referred to and appoints Messrs. S.R. Deshpande and S.V. Joshi to be conciliators for certain areas and Mr. A.S. Ayengar to be a conciliator for certain other areas. Later on in 1942, Government issued two more notifications. The first notification appointed Mr. V.P. Keni to officiate as conciliator vice Mr. S.R. Deshpande for certain areas. These areas however were not the areas for which Mr. S.R. Deshpande was appointed to be a conciliator under notification No. 2847/34 dated 10.6.1939 but are the areas for which Mr. Deshpande was appointed to be a conciliator under the superseded notification of 14.3.1939. Similarly, the second notification issued in 1942 appointed Mr. B.N. Datar to officiate as conciliator for certain local areas

vice Mr. V.P. Keni transferred. Presumably Government had in the meantime issued a notification under which Mr. Keni was appointed to be a conciliator for the areas for which Mr. Ayengar was already appointed to be a conciliator. All these notifications issued after 10.6.1939 do not in terms amend the notification of 10.6.1939 nor do they refer to that notification, although in effect they modify that notification to a certain extent. As this is likely to cause some confusion the P. & S.D. may consider whether it should not now issue a self-contained notification in supersession of all its previous notifications appointing conciliators for the areas in view.

Sd/-
18.4.46
Remembrancer of Legal Affairs.

U.R. to P. & S.D. No., 2994, dated the 20th April 1946.

V?M.D./4.7
4c.

NOTIFICATION.

Political and Service Department.

Bombay Castle, April 1946.

Bombay Industrial Disputes Act, 1938.

No. .- In exercise of the powers conferred by clause (18) of section 3 of the Bombay Industrial Disputes Act, 1938 (Bom. XXV of 1938), the Government of Bombay is pleased to amend Government Notification in the Political and Services Department, No. 2847/34-B, dated the 20th May 1939, as follows, namely:-

In the said Notification -

(1) against entry 16, the following shall be added, namely:

"Haveli Taluka of the Poona District"; and

(2) after entry 24, the following new entry shall be inserted namely:-

"25. Ahmednagar taluka of the Ahmednagar District."

By order of the Governor of Bombay,

Chief Secretary to Government.

V.M.D./4.7
4c.

Office of the R.L.A.

The drafts as revised are sent herewith.

2. It is true that under section 21 of the Bombay General Clauses Act, 1904, the power to issue a notification includes a power to rescind it. In the present case, however, the notification No. 29315/34 dated 25th April 1946 issued by Government under the emergency section 49A of the Bombay Industrial Disputes Act has had the effect of referring an industrial dispute to the arbitration of the Industrial Court which is now seized of the matter, and has already taken the preliminary steps towards its disposal. The propriety of cancelling the notification during the pendency of the arbitration proceedings and reissuing a fresh notification for the purpose of playing for time and referring additional industrial disputes to the arbitration of the Industrial Court would, it seems, be against the scheme and spirit of the Act. and may well be questioned in a court of law. The drafts as revised may issue if Government are prepared to risk challenge in a court of law.

Sd/-
16.8.46.
Remembrancer of Legal Affairs.

"U. R. to P. & S.D. No. 372-P , dated the 16th August 1946.

V.H.D./4.7
40.

Political and Services Department.
Bombay Castle, September 1946.

NOTIFICATION.

Bombay Industrial Disputes Act, 1938.

No. .- In exercise of the powers conferred by sub-section (3) of section 2of the Bombay Industrial Disputes Act, 1938 (Bom. XXV of 1938), the Government of Bombay is pleased to direct that the provisions of the said Act specified in Schedule hereto appended shall apply to the business of banking companies as defined in section 277F of the Indian Companies Act, 1913 (VII of 1913) in the Province of Bombay.

Schedule.

Section 3 , 22, 24, 25, 43 to 67, 69 to 71, 73, 75 to 77, 79 to 84.

By order of the Governor of Bombay,

Chief Secretary to Government.

V.M.D./4.7
4c.

Office of the R.L.A.

A revised draft order (at p. 7 post) is sent herewith.

2. It appears to be the intention of Government to apply section 22, 24, 25, 82, 83 and 84 of the Act to the Banking Companies. The said sections are not included in the draft notifications at page 3 ante on the presumption that they have been brought into force and it is therefore not necessary to specifically apply them to Banks. The presumptions made, however, is not correct. Three stages are mentioned in section 2 of the Act. The first stages consists in extending the provisions of the Act under sub-section (1) of section 2 of thereof to any specified area. The second stage consists in bringing these sections into force in such area under sub-section (2) and the third stage consists in applying such provisions to any specified industry. It is true that sections 22, 24, 25, 82, 83, and 84 have been brought into force in the Province of Bombay. But unless they are made applicable under sub-section (3) of section 2 of the Act to the Banks, they would not be operative in respect of them. It is, therefore, necessary to include the said sections in the notifications now proposed to be issued under section 2(3) of the Act.

3. It is also proposed to apply section 73 of the Act to the Banks.. P. & S.D. should consider whether the application of section 73 alone would be of any advantage in the absence of section 26 and 30 which are referred to therein but which are not proposed to apply to the banks.

4. Before the notifications issue, P. & S.D. should verify whether sections 55,62,63, 65, 66 and 67 of the Act have been extended and brought into force in the Province of Bombay.

Sd/-

Remembrancer of Legal Affairs.

U. R. To P. & S.D., No. 6214, dated the 12th September 1946.

Office of the R.L.A.

The draft notification at p. 5 ante, as amended, is in order. Sub-section (3) of section 2 of the Bombay Industrial Disputes Act, 1938, empowers the Provincial Government to direct that all or any of the provisions of the Act shall apply to such industry as may be specified in the notification. Industry as defined in section 3(16) of the Act includes inter alia an undertaking. Reference has therefore been x made in the draft notification to the undertaking of the B.E.S.T. Co., Ltd.

Sd/-
Remembrancer of Legal Affairs.

U.R. to P. & S.D. No. 7156 , dated the 19th October 1946.

V.M.D./4.7
4a.